



*Minutes
Loxahatchee Groves
Regular Town Council Meeting
November 4, 2008
Location: LGWCD*

Members Present:

Marge Herzog, Vice-Mayor
Dave Autrey, Council Member
Dennis C. Lipp, Council Member
Dr. J. William Louda, Council Member

Members Absent:

Dave Browning, Mayor

Others Attending:

Dr. Irv Rosenbaum, Interim Town Manager (NCS)
Matthew Lippman, Interim Town Clerk (NCS)
Michelle Kantor, Interim Assistant Town Clerk (NCS)
David Tolces, Esq., Town Attorney
Members of the Public

1. – 4. Call to Order/Roll Call/Pledge of Allegiance/Invocation

Vice-Mayor Herzog called the meeting to order at 7:00 p.m. She then requested the roll call by Town Clerk Lippman. Town Clerk Lippman noted that Mayor Browning was absent. Upon completion of the roll, Vice-Mayor Herzog requested everyone stand for the Pledge of Allegiance and Invocation.

5. Approval of Agenda

Councilman Louda MOTIONED to approve the Agenda, SECONDED by Councilman Autrey and discussion was opened:

Town Clerk Lippman said you just received the October 21, 2008 Meeting Minutes and what I would ask is you approve them subject to any changes incorporated after this meeting.

Town Clerk Lippman noted that the Attorney Bill for October 2008 had been added to the Consent Agenda and the Council had received a copy of it. He said I had a chance to review it from a Staff perspective and I didn't see any issues.

Councilman Louda AMENDED HIS MOTION to approve the Agenda, WITH THE TWO CHANGES TO THE CONSENT AGENDA AS NOTED, SECONDED by Councilman Autrey and the MOTION passed unanimously 4-0, with Mayor Browning absent.

CONSENT AGENDA:

6. PBCWUD Connection Requests:

- a. Rick Morrow (Post Office): 14611 Southern Boulevard
- b. Willie H. & Frankie J. Day: 12900 Okeechobee Blvd.

7. Town Council Meeting Minutes: Approval

October 7, 2008 Town Council Meeting & October 21, 2008 Town Council Meeting

The following item was added to the Consent Agenda:

8. Town Attorney Invoice, October 2008

Councilman Louda MOTIONED to approve the Consent Agenda, SECONDED by Councilman Autrey and discussion was then opened:

Councilman Lipp noted that on the Minutes from October 7, 2008, on Master Page 10 of 32, it says that a general consensus was given to send a letter to the Division of Elections regarding Eric Marple's letter and said I don't recall that and I don't want to start a storm by sending a letter.

Councilman Louda said I don't really remember that.

Town Attorney Tolces said the general consensus had been given for the Town Attorney to contact the Division of Elections to see inquire whether or not there were any violations to any State Election Laws.

Councilman Lipp said well that would be satisfactory.

Town Clerk Lippman said thank you for pointing that out.

Councilman Lipp said yeah, yeah, just one of those things.

Councilman Louda noted that on Page 28 of the Minutes from October 7, 2008 it listed Item #5 and said he wanted to remember this point in future discussion. He said I agree with Mr. DeMarios it was absurdly rushed.

The MOTION passed unanimously 4-0, with Mayor Browning absent.

Town Clerk Lippman said he wanted to announce that he had the opportunity to visit the polls today and he would like to recognize Sharyn Browning for doing a great job with it.

Vice-Mayor Herzog moved to Item #9.

REGULAR AGENDA:

9. Public Hearing (Southern Crossing MUPD): Control No. 2004-961

GENERAL LOCATION: NW corner of Southern Boulevard and "E" Road (Southern Crossing MUPD).

TITLE: An Official Zoning Map Amendment to a Planned Development District.

REQUEST: Rezoning from the Agricultural Residential (AR) Zoning District to the Multiple Use Planned Development (MUPD) Zoning District.

APPLICATION SUMMARY: Proposed is the rezoning of 9.13 acres of land from the Agricultural Residential (AR) Zoning District to the Multiple Use Planned Unit Development (MUPD) Zoning District to allow for the development of 7,552 square feet of financial institutions and 29,856 square feet of medical office for a total of 37,408 square feet. The proposed Site Plan indicates 2 financial institution buildings and 5 medical office buildings for a total of 7 buildings. The site plan shows a total of 157 parking spaces with access to the site from Southern Boulevard and Loxahatchee Avenue.

Ordinance 2008-010: (1st reading)

AN ORDINANCE OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, APPROVING ZONING APPLICATION PDD-2006-188 (CONTROL NO. 2004-061) OFFICIAL ZONING MAP AMENDMENT TO THE TOWN OF LOXAHATCHEE GROVES UNIFORM LAND DEVELOPMENT CODE FROM AGRICULTURAL RESIDENTIAL TO MULTIPLE USE PLANNED DEVELOPMENT DISTRICT FOR PROPERTY CONSISTING OF APPROXIMATELY 9.3 ACRES LOCATED GENERALLY AT THE NORTHWEST CORNER OF SOUTHERN BOULEVARD AND "E" ROAD (SOUTHERN CROSSING MUPD); PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE

Town Attorney Tolces read Ordinance 2008-010 for the 1st reading. He said that as a municipality the only way you can legally adopt a rezoning is through an Ordinance. He announced that the 2nd reading will be on November 18, 2008. He then explained that this was

a quasi judicial hearing and the process for that. He asked anyone who would be speaking on the issue to please stand and swore them in.

Town Clerk Lippman pointed out the historical timeline of the project was in the Agenda Packets. He announced that the Town Planning Consultant, Kevin McGinnley was also present tonight for any questions that might arise.

Bradley Miller, President of Miller Land Planning and Design- introduced himself and said he was here representing the applicant. He also introduced Marty Perry, the applicant's Legal Counsel, Rob Rennebaum who is handling the traffic part, from Simmons and White, Belinda Harper from his office, Jon Schmidt who designed the site plan, and Bob Kuoppala the architect for the project.

Mr. Miller explained this is a little over 9 acres on Southern Boulevard located between E Road and Loxahatchee Avenue. He said the road on the back side of the property is Tangerine Drive and to the East is the park. He said the development plan is a combination of some office buildings and 2 bank sites that are positioned on both sides of the entrance off of Southern Boulevard. He said this is the original plan you have seen and we do have an alternative plan that we will talk about tonight. He said with the original plan we had driveways coming off of E Road and Loxahatchee Avenue that allow access from all directions and from Southern Boulevard the driveway is inbound only and does include by our conditions of approval a turn lane that would be constructed as part of that entrance. He said our alternative plan that we are proposing does some modifications to the entrance ways. He said through working with Matt we understand there are some concerns with the potential of traffic getting back into the Community. He said we took a look at the driveways to see what we could do to adjust those driveways, and along E Road, we put in what the traffic engineers very kindly call a pork chop but it is a traffic control device that would direct traffic so you have a right in only coming from the North to the South, and as you leave there would be a right out only and it would restrict the traffic coming from the project from going back North into the Community. He said what we have also done since we were here last, is we went and talked to DOT about possibly getting a inbound and an outbound approval for the Southern Boulevard entrance. He said the response there was, and when this project originally started in the County that request was made with the County through a variance process that they have and it was denied. He said when we went back and asked them again, they said the Town had also been there talking to them about Southern Boulevard and so their response was, the only way they would consider an inbound and an outbound on that driveway, would be to have the support of the Town and then we go in there, hand in hand to request that and that would help control traffic coming onto Southern Boulevard instead of back into the Community. He said at this point, that is one of our requests here tonight, that you consider assisting us, whether it is through a letter of support or whether it's the Mayor or a Councilmember actually attending the variance hearing with DOT. He said we need to show strong support there that we are mutually in agreement with that if that is your desire. He said if we can accomplish that, then what we would do is modify the driveway on Loxahatchee Avenue where it's actually a sweeping right only entrance way into the project. He said the importance of all this working together, is you can see that if the egress (exit) from Southern Boulevard is not approved by DOT there is only going to be one exit lane for the project, so that part of it is critical and it is kind of a timing issue. He said if we get the approval for inbound and outbound then we could get the 2 exit points for the project, which we feel is important for the future tenants. He showed a slide of the pork chop and showed if DOT gives the variance, the inbound and outbound. He said that is our plan and our approach to the access points and concerns that have been shared to us. He said I understand there are some questions to the drainage of the project and showed the area of the park which would be

deeded to the Town. He showed the primary drainage area and a small open space area. He said the drainage would be collected through a system within the parking lot; all of it contained within the project. He said a good analogy is the bathtub. He said for these projects and the permitting that has to occur in order for them to be constructed and developed, is that you cannot take the drainage from your site and then spill it over it to other properties. He said you have to catch it on site, and then control it and then it would come from the parking lot to a drainage system and then it could come through the parking lot as a piping system and it would be used as a dry retention area for a holding area and then our outflow is to the canal on the south side of Southern Boulevard. He said the permitting agencies are extremely stringent on that and the drainage will be controlled so there will be no impact on the surrounding properties.

Mr. Miller noted we are in agreement with the Staff Report that originated out of the County except for 2 conditions. He noted on Page 55 of 147 1E needs to be deleted about discussing a turn lane on Loxahatchee Avenue at Southern. He said this would be really tough to do since there is a median there.

Ms. Harper handed out the following changes. (see below)

Southern Crossing
MUPO Control Number 2006-188
November 3, 2008

Proposed Condition to be Deleted

i.e. This condition should be deleted. You cannot turn left from Loxahatchee Avenue to Southern Boulevard.

New Proposed Conditions of Approval

ACCESS

1. The Final Site Plan will be modified to show a traffic control median at the driveway to E Road that will allow for only right-in/right-out turning movements.
2. Prior to Final Site Plan approval, the Property Owner shall request a variance from FOOT to modify the Southern Boulevard driveway to include an egress lane in addition to the ingress lane.
3. Upon approval of an FDOT variance to include an egress lane to the Southern Boulevard driveway, the Property Owner shall amend the Final Site Plan to show a right-in only driveway on Loxahatchee Avenue.

Mr. Miller noted by the time we come back to you with the Final Site Plan, we would have to have gone to DOT to get those approvals.

Mr. Miller went over a recap of the overall project. He said from a land use standpoint Comprehensive Plan this has a CLO Land Use on it that was adopted through the County, so the MUPD zoning is consistent with the Comprehensive Plan and the buffers that we

provided around the entire perimeter comply with not only the Land Development Code but also with the Loxahatchee Rural Vista Guidelines. He said the density which actually comes out of the Comprehensive Plan complies with the 10% FAR that is required. He said we have gone through this thing, and I know you've heard it from me before, our original application on this was December 2003 and we are closing in on a full 4 years of application process here. He said as you can imagine our client is kind of at the end of his rope here in trying to get this thing through. He said we feel that we have done everything that we could to try and address initially dealing with the County and then once incorporation came along, addressing the comments at the various hearings we have had. He said hopefully we can resolve this and our goal here to tonight is to have a final answer. He said we are hoping we can move this project along.

Councilman Lipp asked Patrick Figurella are you up to speed with the Southern Boulevard Corridor Study we are buying from your company.

Town Clerk Lippman said I am; I just met with them recently.

Councilman Lipp asked is this incorporated in that at all or is this something we don't have any choice over.

Town Clerk Lippman said what I can tell you as far as the Southern Boulevard Corridor Study is this particular project was plugged into the equation and this particular area as far as traffic flow and traffic counts, is consistent with what they are proposing and we have not done any financial impact studies but as far as the flow and mapping out the corridor there were no issues or concerns to the study.

Councilman Lipp said my next concern is to why we did a Visioning Process, and Belinda was there I believe. He said and this is outside of what I recall was our Visioning Process. He said I heard we wanted to create a different look for Loxahatchee Groves, as opposed to every MUPD up and down SR80, Military Trail and other places in the County with having more of a Town feel on Tangerine. He said and this is the same project I saw when the LGLA looked at it and that was a pretty long time ago, way before incorporation. He said it is one of those things, you spend the money and do what you need to do and the projects just never change. He said when I saw this on the Agenda I thought it might but it was the same old same old and I'm sorry to hear that. He said I think it is something as we get our Comprehensive Plan back from DCA early next year and start moving forward, someone one day might ask, what is that funny bank building out there that doesn't look like the rest of the Town, and someone from the Council might have to say, that got snuck in on us. He said those are my comments. He said later on in the documents, it says you are going to build E and Tangerine to local street standard and I've seen nothing from LGWCD or the Town Management company that has designed a typical section of a local street so that sort of perplexes me as well.

Councilman Autrey said I was the one that had the drainage concerns and I understand that you are containing the water on your property, my concern is and we just went through it not too long ago, is that area has some specific drainage issues, and you are taking a fairly large part of that area and are basically making a bath tub and you are going to prevent water from coming in and the natural slope is everything flows to the South and my concern is what this project will do to those homes and the overall drainage pattern of that area because right now it is an open area and I don't know what the water is doing but if it flows to the South, what are we going to do mitigate the problem for the folks who live to the North. He said what I would like to do is to have a conversation about that whole area with respect to its overall drainage issues, and we

need to think about that in total and not just each little piece, because it happens to all the properties out here, someone comes next door and raises their property up for whatever reason, that water normally hits it is going to go some place, in your case you are going to retain your water but you're going to prevent the water moving to the South. He said where is that water going to go, is it going to back up and go to the North. He said so it is further possibly going to create problems for the people who are there. He said I do applaud you in working with DOT and that will help the traffic on Southern. I would also echo Dennis's comments with respect to the design, and we are trying to do something here to accomplish something different. He said those are my concerns. He asked what was the traffic count again, I remember it being something like 1 car a minute coming off the project.

Mr. Miller said that does sound familiar.

Councilman Louda said I echo both of those sentiments, except I also see the owner's side of this because we inherited this unfortunately, it was already in process, and the Town effect on Tangerine that would presuppose the homes on the North side of Tangerine selling for development. He said my biggest absolute objection is the green arrow at E Road (the pork chop). He said what that is going to do is pull people off of F Road down Citrus to E to come in. He said what we are trying to do I thought is to get traffic off of Citrus. He said now if you take that green out and we factor on the Southern, into the middle, out of the middle, and in Loxahatchee and out at E, then you have 2 ins and 2 outs. He said you have a circulation pattern trying to keep your traffic out of the Groves. He said that wouldn't necessarily mean blocking E or Loxahatchee off. He said but you know I do sympathize with the owner that this has been in process for a long time and they have worked quite heavily with the Community. He said too, this isn't like the Moratorium for building we put in for new projects. He said it has been here a long time. He said that green arrow off of E I really object to. He said I definitely support the in and out egress coming off of Southern, that is where it should be. He then asked are any of the people that live in the immediate area here and how do they feel about the project.

Town Clerk Lippman responded they are here and will be speaking.

Councilman Louda said you obviously notified anyone within 500 feet and I do want to kick that out to 2500 feet at least.

Councilman Lipp asked the total number of parking spaces.

Mr. Miller responded 157.

Councilman Lipp asked at build out, how many Full-Time employees would you expect the offices and the banks to employ.

Mr. Miller responded that is really hard to predict not knowing the uses of the offices; I really don't know if I can give you a number on that; it would depend on the tenants.

Councilman Lipp said when we had our first public meeting on that one of the residents on Tangerine counted up the employees on that and it ate up 2/3 of the parking spaces.

Mr. Miller said we have the Land Development Code that we have to follow and it is put together not only by looking at PBC and the Town of Loxahatchee Groves but they look into various areas throughout the Country to establish those ratios and in those they include employees and

patrons going to those businesses. He said the other part that can be controlled with the parking is someone moves out and someplace else moves in as a higher or lesser account. He said our plan complies with the land development code.

Councilman Lipp said I do agree with Councilman Autrey and his concerns with drainage and we just had houses to the North of there with Fay that had water in their homes and that is why I would much rather see a global approach to Loxahatchee Groves than a cookie cutter MUPD and we already got stuck with the Chamber of Commerce building.

Councilman Autrey said I just want an opportunity to follow up on the drainage with that area in general. He said I didn't see anything in here with the LGWCD. He asked is that something we don't have to consider.

Town Attorney Tolces said there was a reference to the drainage and that it would be contained in the swale is a requirement that they have to meet and I understand we are looking for a more global situation.

Councilman Autrey said yeah but if we take a bad problem and make it worse and don't address it.

Town Clerk Lippman said I just want to point out is the unique situation you are pointing out would be appropriate to work with the Town since that is a Public Road and not one the LGWCD has authority on. He said Tangerine is a Public Road so if there are drainage issues that need to be dealt with we need to coordinate with the Town Planners and the LGWCD to work it out.

Councilman Louda said there is a lot of drainage coordination that has to be taken into account here.

Town Attorney Tolces said I just want to give brief legal direction to the Council with respect to a rezoning quasi judicial hearing. He said under Florida Law if the applicant meets certain standards and presents substantial confident evidence to support their application, then a judge would find you have a certain obligation to approve the application. He said I understand your concerns with respect to the global nature and the fact that this development may not fit in with what the Town's Vision is, but due to the fact that the application was pending when you incorporated you are somewhat restrained in your ability to control the look and the feel of the development. He said I just want to give you from a legal perspective certain constraints that you are under and the proceeding tonight is governed by those. He said certainly you all have your own opinions and thoughts but I want to make you aware of that.

Rob Rennebaum, Simmons and White- introduced him and said I was the traffic and the drainage engineer for this project. He said and I think your attorney said that very well. He said we have met legal standards with regard to drainage and to establish legal positive outfall exists. He said I've prepared a signed and sealed drainage statement addressing the conditions on the site, the proposed outfall and proposed drainage system that will be on the site, as well as the permitting agencies that we have to go through, there are 3 layers of drainage review and permitting to protect the residents. He said the FDOT issues a drainage connection permit to us and that is a rigorous review, as well, as SFWMD and the Town of Loxahatchee Groves. He said we do meet all the legal standards and we will comply with all the criteria for drainage design for this site.

Councilman Autrey asked did you take into consideration what my concern was in terms of the water flowing South.

Mr. Rennebaum responded at this point we have to establish legal positive outfall and identify what system we are going to use for the future design, we are not required to go through the detailed calculations at this point, but we will be during the permitting process and will have to consider off site flows and accommodate them, yes.

Councilman Autrey asked now so when you see off site flows you are dealing with that specific site.

Mr. Rennebaum said we are dealing with that specific site and if it is an importer, we have to address that, we have to provide bypass for any flows that are currently coming to this site. He said we can't just ban somebody off if there is historical flows flowing to us/

Councilman Autrey asked and you do that through what, elevations/models.

Mr. Rennebaum responded through a review of the onsite as well as the offsite.

Town Clerk Lippman said I do need to enter into Public Record the correspondence between Town Staff and the applicant and any letters that have been sent, and the planning file as well.

Mr. Miller asked are the prior hearings that we've had all part of this record.

Town Clerk Lippman said yes, that is correct.

Town Attorney Tolces commented we have Kevin McGinnley here as well who reviewed the project for the Town and can answer any questions you have for Town Staff.

Town Clerk Lippman commented that Patrick Figurella from Calvin-Giordano was also here and could answer any questions relating to the drainage.

Town Attorney Tolces then swore in additional Members of Town Staff and the Public who wished to speak on the issue.

Patrick Figurella, Calvin-Giordano- said the question is where does the water go; well that depends on the topography of the land which you have to look at a survey of the adjacent parcels to see. He said but essentially what Rob said is correct, if the sites adjacent to them are higher than their site and the water has historically flown through their site to reach its point of ultimate discharge they are required to provide that level of bypass and whatever flow is not contributed by their site, they have to pass that through to its ultimate location because if they fail to they will create essentially a damn that would block off the properties and there could be a lawsuit. He said so it is in their interest to see in fact if there are and if the properties to the North are higher than they then their water would have to more than likely flow through this site to a drainage ditch on SR80 that would have a side drain crossing to the South.

Councilman Louda asked could they conceivably do a swale on the North side that led to their retention pond and make it a double overflow. He said there is a swale on the North side of SR80 with the elevated pumps.

Mr. Figurella said what they are going to have to do is study the area to their North. He said if the topography indicates that they are lower than their area to the North then they would have to look at water flowing through their site. He said when you are dealing with offsite flows like that, it is somewhat tricky. He said at this point they haven't actually done any engineering design. He said they have to swear when they design the site they will follow the rules established by the SFWMD and any other agency.

Councilman Louda said during the Fay event I was down to look at the flood on Tangerine but unfortunately as I was driving East on Tangerine I was looking North and I didn't look at this property. He said there was water obviously high enough to get over there. He said that would have been a great time to estimate.

Town Clerk Lippman asked Mr. Figurella if he felt confident with the permit process they will have to go through as far as whatever natural flow would have to be consistent with whatever it was before their property came about.

Mr. Figurella responded yes, and if they interrupt a natural drainage pattern, they could be sued.

Town Clerk Lippman said it turns out that what is going on with Tangerine is there was a culvert on the South side that was being blocked and it was completely backing up on someone's property. He said what the LGWCD did is they went in and unblocked it. He said that was the main issue with the pictures Ron had showed us of the house that was flooding up to the door.

Councilman Louda asked where was the outfall of that culvert going.

Town Clerk Lippman said the point that Patrick and Councilman Autrey are making, is any type of flow that was happening is going to happen again.

Councilman Louda said that is a given and I am just trying to find out where these are.

Town Clerk Lippman said I will ask the applicant to go above and beyond to really look and see what is going on with these areas, and to get a little more creative and outside the box in considering what needs to be done, but as Town Attorney Tolces indicated, they will have to come back to us and we will have to approve it at that point.

Councilman Louda asked, so we can go through a zoning change and then they come back with another permit. He said so if we go through with the zoning change the project doesn't get built until they come back.

Town Attorney Tolces said the site plan will come back to you for final review.

Councilman Louda said under the new proposed conditions I can't go with #1 at all, no way.

Vice-Mayor Herzog asked for comments from the Public.

Frank Schiola, 13434 Marcella Boulevard- said I think I can address some of that drainage and how it works over there since I and Mr. Jarriel were over there when the flooding occurred. He said the way that runs right now is there is a meandering drainage, and it runs through that property to a drainage culvert on Southern Boulevard West of Loxahatchee Drive and years ago

there used to be a lake in there that was filled in and basically it goes around that what used to be a lake and ends up into there, so what you can do to keep the project moving along is to have a condition of approval to where the drainage for these properties are maintained, and if the builder of the property doesn't meet it, you don't have to give a CO on the property until they do meet it, that way the people on that side of the property are protected by this so that we won't have this problem again. He said and also there are people who have pipes underneath that road so the developer of the project would have to go in and put a new drainage pipe to make the water flow a little smoother through there, and I would hope you would put a condition of approval for that too.

Town Clerk Lippman said in looking at the Staff Report that was previously submitted by the County, there are rezoning standards, and one of them is designed to minimize this adverse impact. He said the adverse impact brought up by Councilman Autrey and Frank need to be addressed and have already been addressed and is required to by the State and has already been met by the applicant.

Guy Harmon, 357 Tangerine Drive- said I am surrounded by this property and I don't have any problem with them building it, but I have a problem with the barriers between my property and the Commercial business. He said I am not too happy that I will go out of my house and see a big wall. He said there is a large planted barrier all the way around except when to where it blocks my view. He said they have a drainage ditch on the other side and I am not too happy with that either. He said when you first came up with this 4yrs ago there was supposed to be a 50ft buffer between me and everyone else.

Town Clerk Lippman said it is required to be 50ft; that is a condition they must meet.

Mr. Harmon said if in 5yrs the wooden fence got knocked down I would be worried about getting someone to fix it.

Anne Parker, 15565 Collecting Canal Road- said my question is why did DOT say he couldn't have an in and out on Southern Boulevard. She asked is it because you can't cross over. She said I don't see where there are any changes except for the pork chop. She asked why 2 banks and said to me that is overkill. She said they are talking about 157 parking spaces and when a bank is busy they are always backed up, especially with a drive through. She said I know we need the tax base that they will provide to us but if they are going to come back they should have changed something other except the in and out on E Road.

Mr. Miller responded maybe what I will address first are the changes. He said Jon Schmidt has prepared 10-15 site plans for this project over the last 4 years. He said this plan was generated as more and more comments were received from LGLA, the County, and then from you. He said I think Councilman Lip is right, we are in a situation here where we have a Land Use Plan that is in place and is approved. He said we have a project that is going through the review process based on this Plan so if we start changing that, we are unraveling everything and going backwards. He said we've tried to respond to the comments that started out with the issues on Southern Boulevard, which I think through time and research and the things that have happened through the County process, those were alleviated. He said there were concerns about the access reaching out to the adjacent roadways of Tangerine and Citrus and we contacted all 19 property owners along those 2 roadways and met with 4 property owners along those 2 roadways to discuss what the issues were. He said we have tried to deal with the access issues, Councilman Louda, the right hand situation off of E Road, we are actually looking for the

residents of Loxahatchee Groves to be able to get into this development and actually take part in it without the concerns of Southern Boulevard. He said we feel this is a little bit of a safer situation. He said I hope all your questions have been answered on the drainage but Rob is still here if you have more on that. He said there is a requirement for a 50ft buffer with the landscaping that is required and included in that requirement is a 6ft high wooden fence. He said we keep complying and complying and I keep coming back. He said the banks is an interesting question and asked would it have still been a question 2-3 yrs ago. He said the economy has changed and our client has certainly suffered because of that He said we're one month away from getting in front of the County Commission for the rezoning of this property before the incorporation.

Marty Perry, Legal Counsel for the Project- said the gentleman who is surrounded by the project expressed a concern about the fence and it deteriorating. He said the fact is there is a Code Enforcement Provision in your Ordinance. He said you have properties here and if the fence were to deteriorate, that is a Code Enforcement issue and can be addressed. He said I thought Mr. Tolces comments were on point and the fact is these people have met every requirement of the ULDC and they have dealt with every issue that has been brought up, including the drainage. He said once the approval is in place they still have to come back to you and this is not the end of the process. He said with the issue raised by Councilman Autrey about the Town Visioning and it is clear there has been some disappointment but there is nothing we can do to address this at this point. He said not everybody is going to be happy about all aspects of this project and it is an unfortunate transitional piece. He said I would urge your favorable consideration tonight to let this move on.

Vice-Mayor Herzog commented one thing I was concerned about was the deeding of the park before permitting and she asked if that was going to happen.

Town Attorney Tolces responded typically the deed is usually given before any permits are issued.

Mr. Miller said we are going to have to plat this property and the plat has to be in place before building permits are issued.

Town Attorney Tolces suggested at this time it would be appropriate to make a Motion.

Councilman Louda MOTIONED to approve Ordinance 2008-010 for the 1st reading, removing 1(E) and adding the 3 additional new proposed conditions of approval, and the MOTION died.

Councilman Autrey asked Staff with the conditions of approval they are going to request a variance and asked if the request is denied by DOT, where do we go.

Mr. Rennebaum said Vice-Mayor Herzog asked why we only have an ingress off of Southern and this has been going on for over 4 years and way back in the beginning Bob Baseheart went to DOT and asked and they said no. He said the only way you are going to get an in and out is if they know the Town Council and Town Engineer agree to go to the variance committee and ask again and they gave us a very high likelihood that would occur and if the Mayor or the Vice-Mayor could join us at DOT for the variance hearing I think we are going to get that and it is

very important we get that but to answer the question, if we don't get it the way the Plan is designed right now.

Town Attorney Tolces stated we need some type of action for the record with respect to the Ordinance.

Town Clerk Lippman said we need some direction and one of my recommendations would be if you pass it on 1st reading this evening you can put a requirement and be very specific on the information you need back here by the 2nd reading on November 18, 2008. He said I am not recommending that you approve the project, I think we need to move to the next step and allow the applicant to address some of the issues of concern and come back to us.

Town Attorney Tolces said if no one is going to make a Motion to accept this, I recommend you make a Motion to table this item to the next meeting.

Councilman Autrey made a MOTION to table this Item until the next meeting on November 18, 2008, SECONDED by Councilman Louda and the MOTION failed unanimously 4-0, with Mayor Browning absent.

Mr. Perry asked for some clarification on this matter.

Town Attorney Tolces said what I would suggest is, aside from the issues you have spoken of tonight in regards to drainage and the ingress and egress, are there any additional issues you would like the applicant to do to provide you with additional information that will satisfy you and the concerns you have.

Councilman Autrey said I would like to see the official corridor study from Calvin-Giordano and understand that better because there is a domino effect.

Town Attorney Tolces said the corridor study, while it is important, does not have any legal impact regarding zoning and site plan. He said I understand the Council's need and concern to see that study.

Councilman Lipp said if you could get with the LGWCD and Clete and come up with something specific as it relates to the drainage of that portion of the Town. He said if they can come up with something so we can look our residents in the eye and say we have done the best we can and our Town Engineer is willing to sign off on it.

Town Attorney Tolces said my job is to put you as the Town Council in the best legal position with respect to any action that you might take. He said their issues with respect to drainage will be addressed as they come forward with the site plan and they certainly won't be able to get any permits if they don't meet the drainage requirements to assure there are no adverse impacts with the drainage. He said you have valid legal concerns that need to be addressed but I don't want to make it appear as we are making any unnecessary hurdles for an applicant to the Town.

Councilman Lipp said all I am asking is somebody who is going to be our neighbor and is currently a land owner and if Legal Counsel believes our concerns will be answered sometime in the future, but I sit on the Planning Commission all the time and we see things come through and I just want to get the warm and fuzzy as to where this project is at. He said the project at F and Southern was all approved and they came to us and asked us to switch it. He said I know that the landowner has put a lot of bucks into this thing and I feel sorry for him because I believe in private enterprise. He said if our hands are tied legally with needs to be done then so be it. He said if the architects, the landowner, and the designer could get together and I think that would be a golden opportunity.

Councilman Louda asked with the pork chop on E you say you want to give the opportunity for the people of Loxahatchee Groves to use that facility and not be forced onto Southern and the pork chop forces them onto Southern, so if you get rid of that pork chop and make it a regular T, our residents can leave the same way they came.

Town Clerk Lippman verified Councilman Louda, you are asking them to eliminate the pork chop and make it a T. He referred to the green arrow on the slide on the screen.

Councilman Louda repeated change the pork chop to a T. He said that entrance can stay but this forces anyone leaving to go to Southern.

Town Attorney Tolces said you have a Motion on the table and what I would suggest is your traffic engineers on Staff get with the developer to see if any type of accommodation can be made with respect to access and how ingress and egress can be made with respect to the property. He said then at the next meeting you will be able to review and discuss it and decide what you want to do with it.

Town Clerk Lippman said I would strongly urge that you pass this Ordinance on the 1st reading tonight and it still gives you the same opportunity to require them to come back and if you don't feel they satisfied it, you can deny them at the November 18, 2008 Meeting. He said they have met all the conditions they were required to meet.

Mr. Perry said I would urge you to reconsider. He said the issue with Councilman Louda, it is not what the residents want. He said your suggestion would allow everyone to go back on Tangerine. He said the purpose of the pork chop would divert everyone doing that.

Councilman Louda asked what do you do on Loxahatchee Avenue.

Mr. Perry said if we could get another point of egress onto Southern Boulevard with the Town's cooperation then we would only have ingress on Loxahatchee and there would be no point of egress.

Councilman Louda made a MOTION to approve Ordinance 2008-010 for the 1st reading, removing 1(E) and adding the 3 additional new proposed conditions of approval as brought forward by the applicant, SECONDED by Councilman Autrey and the MOTION passed unanimously 4-0, with Mayor Browning absent.

Town Attorney Tolces announced the 2nd reading and the Public Hearing will be on Tuesday, November 18, 2008.

Councilman Autrey said my concern from the very beginning and still is-is the traffic. He said we have heard from Staff that it is no problem but we have heard from no engineers there is no problem.

Vice-Mayor Herzog commented it looks like it is going to be a bottle neck.

Councilman Louda asked about the timeline with FDOT and the variance.

Town Attorney Tolces said we will get with them and see, but I doubt anything could be done in 2 weeks.

Vice-Mayor Herzog moved to Item #10.

10. Public Hearing (First Holiness Church of the Living God, No. 3): Control No. 2008-00057

GENERAL LOCATION: 0.3 mile east of "F" Road on the south side of Okeechobee Boulevard.

(Property Control Number: 41-41-43-17-01-633-0020)

REQUEST: Site Plan Approval

APPLICATION SUMMARY: On May 6, 2008, the Town Council approved a Development Order Amendment to reconfigure the site plan and to delete landscape conditions of approval for a Place of Worship. The 5-acre parcel of land was approved by the Board of County Commissioners (BCC) on May 22, 2003 for a 15,000 square foot Place of Worship with 585 seats; however, this development order was never utilized. The site currently supports an existing 1,980 square foot one-story residence and a 450 square foot accessory pool. The proposed site plan shows the existing building, with a proposed 3,000 square foot addition, totaling 4,980 square feet for a Place of Worship with 250 seats. The site plan also shows a 2,617 square foot porch and 73 grassed and 12 paved parking spaces providing a total of 85 parking spaces. One access point to the site will remain from Okeechobee Boulevard. The Town Council additionally approved the Time Extension request by the applicant at the October 21, 2008 meeting.

Town Attorney Tolces said this is the Public Hearing for the Site Plan Approval for First Holiness Church of the Living God and swore in anyone wishing to speak on the Item.

Chris Barry, Jon Schmidt and Associates- introduced himself and said at the last 2 hearings you have seen Whitney Carroll who has presented the project to you and we have been doing the site plan development. He read the location of the property. He went over a brief history of the project. (see below)

05/22/2003: 585-seat (15,000 square foot) Place of Worship approved by PBC BCC

» Never constructed due to financial difficulties

- **05/06/2008:** 250-seat (4,980 square foot) Place of Worship approved by Town Council

- **10/08/2008:** Project certified by PBC DRO

Town Clerk Lippman explained we have had 2 opportunities where we have seen and commented on this site plan.

Councilman Autrey asked why is the 50ft incompatibility buffer only on the South property line.

Mr. Barry responded it is required in your Neighborhood Plan.

Councilman Autrey said I know it is there but if it is adjacent to a single family is it only 20 feet.

Town Clerk Lippman said we reviewed this and that is correct.

Vice-Mayor Herzog asked if there were comments from the Public.

There were no comments from the Public.

Councilman Lipp made a MOTION to approve the site plan for First Holiness Church of the Living God, SECONDED by Councilman Louda and the MOTION passed unanimously 4-0, with Mayor Browning absent.

Vice-Mayor Herzog moved to Item #11.

11. Ordinance 2008-009: Procurement Code (1st reading)

AN ORDINANCE OF THE TOWN OF LOXAHATTCHEE GROVES, FLORIDA ENACTING A NEW SECTION OF THE TOWN OF LOXAHATTCHEE GROVES CODE OF ORDINANCES ENTITLED "BID PROCEDURES; PUBLIC FUNDS" ADOPTING PROCUREMENT REQUIREMENTS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR EFFECTIVE DATE.

Town Attorney Tolces conducted the 1st reading of Ordinance 2008-009-Procurement Code. He said there was a typo that Councilman Lipp pointed out to me and that is you have 2 section gs. He said the first section g should be section f.

Councilman Autrey made a MOTION to table this Item till the November 18, 2008 meeting, SECONDED by Councilman Louda and discussion was then opened:

Town Clerk Lippman said Town Staff is okay with that.

Councilman Lipp said I would like to ask that since NCS check writing limit is \$10,000, is that we lower the threshold for bids from \$25,000 to \$10,000 and somewhere in there it has the maximum \$75,000 and cut that back to \$30,000.

Vice-Mayor Herzog asked if there were any comments from the Public.

There were no comments from the Public.

The MOTION passed unanimously 4-0, with Mayor Browning absent.

Town Attorney Tolces announced this will be brought back for 1st reading again on November 18, 2008.

Councilman Autrey said my concern is I have a number of questions and I didn't want to just crunch through it.

Vice-Mayor Herzog moved to Item #12.

12. Ordinance 2008-011: Moratorium Extension (1st reading and public hearing)

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, PROVIDING FOR AN EXTENSION OF THE MORATORIUM ENACTED PURSUANT TO THE TOWN OF LOXAHATCHEE GROVES ORDINANCE NO. 2007-07, CONSISTENT WITH THE TOWN CHARTER, ON THE PROCESSING AND REVIEW OF APPLICATIONS FOR DEVELOPMENT ORDERS AND DEVELOPMENT PERMITS, AND APPLICATION FOR AMENDMENTS TO THE TOWN COMPREHENSIVE PLAN, AND THE CORPORATE BOUNDARIES OF THE TOWN; PROVIDING FOR EXEMPTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVING FOR AN EFFECTIVE DATE.

Town Attorney Tolces conducted the 1st reading of Ordinance 2008-011-Moratorium Extension.

Town Attorney Tolces announced I want to identify for the record that we did receive a letter from Loxahatchee Equestrian Partners LLC concerning their request with the Town to reconsider extending the Moratorium and I will prepare a response.

Councilman Autrey made a MOTION to accept Ordinance 2008-011-Moratorium Extension on the 1st reading, SECONDED by Councilman Louda and discussion was then opened:

Councilman Louda noted this takes it to May 20, 2008.

Vice-Mayor Herzog asked for comments from the Public.

Mike O'Dell, O'Dell Land Planning- said I am here for my applicant of the property on B Road and Southern, and the owner Terry Burton did send a letter for you to consider an option for us

to move forward with our process. He said if I understood you all have submitted your Comprehensive Plan to DCA and you are looking at some comments coming back in mid to late November. He said our process would be to submit an application for an amendment, and that amendment would come to you about December 1, 2008 and this process is one of the first that we would have to go through, so even if you are successful in getting your conditions from DCA what we are asking for is some considerations if we could begin our process. He said if we are making the assumptions here tonight that if we follow the process and go to the County that we would be doing so in March or April which would be well after your Comp Plan would be approved. He said we are just asking so we can begin our process and we are willing to work with you, but we would like to begin our process because we do have a lengthy process to go through. He said we know your Land Use Regulations will be coming up as well and we would like to be a part of that as we were with the Visioning.

Town Attorney Tolces explained that the Moratorium Ordinance does have a process where someone can apply for an exemption. He said I will respond to the letter and provide them with a copy of the Moratorium Ordinance and point out the process of applying for an exemption.

Councilman Lipp asked what would be the time frame on getting this variance procedure started.

Town Attorney Tolces said they could submit the request and your consideration could probably be the 1st meeting in December.

Councilman Louda said I would rather do it that way, that way we are not showing a precedent or favoritism.

Town Attorney Tolces said if you don't pass the extension of the Moratorium Ordinance, then the Moratorium would expire and there would be no need for that.

Councilman Lipp said I appreciate a good neighbor.

Vice-Mayor Herzog asked for comments from the Public.

There were no comments from the Public.

The MOTION passed unanimously 4-0, with Mayor Browning absent.

Vice-Mayor Herzog moved to Item #13.

13. Ordinance 2008-007: LUPA Withdraw (2nd reading and public hearing)

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, REPEALING THE TOWN OF LOXAHATCHEE GROVES ORDINANCE NO. 2007-009 WHICH ADOPTED THE AMENDMENT TO THE TOWN'S COMPREHENSIVE PLAN NO 08-01; PROVIDING FOR CONFLICTS, PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Tolces conducted the 2nd reading of Ordinance 2009-007-LUPA Withdrawal.

Councilman Autrey made a MOTION to accept Ordinance 2008-0007-Lupa Withdrawal on the 2nd reading, SECONDED by Councilman Lipp and discussion was then opened:

Councilman Lipp said I really hate doing this and asked Town Attorney Tolces, so after tonight you will be sending letters to the appropriate hearing people. He asked, so what do you expect to have happen next from Diffendorfer and company to our North.

Town Attorney Tolces responded if you pass this tonight I will advise the Administrative Law Judge that the Town has repealed the LUPA and ask him to dismiss the case. He said we have forwarded the Comprehensive Plan to the representatives for Callery Judge Groves for their input and we will follow up with them later in the week to see if they have any comments so we can be certain to address them.

Councilman Louda said their objection just boils down to we are creating too much traffic.

Town Attorney Tolces responded well it is the process of analyzing the impacts of alleged increased traffic.

The MOTION passed unanimously 4-0, with Mayor Browning absent.

Vice-Mayor Herzog moved to Item #14.

14. Resolution 2008-030: Emergency Road Repair Policy

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, FLORIDA, PROVIDING FOR THE ADOPTION OF THE TOWN'S EMERGENCY ROAD REPAIR POLICY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Tolces conducted the reading of Resolution 2008-030-Emergency Road Repair Policy.

Town Clerk Lippman said I apologize that the Resolution was left out of your packet, but you will be approving the Resolution that is in front of you and accepting the road grading as part of this Resolution as well. He said one of the things I want to preface is there was some public discussion about this when this Item first came up, and I do want to emphasize that Town Staff, Town Attorney, and the Mayor and the Council are very well aware if there is an emergency situation, there is no need to fill out 15 pages of paperwork, all that needs to happen is a 5 minute conversation on the phone. He said once the immediate emergency is taken care of, and the residents are out of danger, then I do expect some immediate response back to me. He said another classification of emergency repair is if there is a road that is failing for instance, 161st Terrace North that is a bad road, that is what is called emergency repair. He said a life or death situation will be handled immediately by the Town. He said there are 4 things I need for Town Staff to cover ourselves. He said these 4 things can be answered in a 5 minute

conversation. He said there is no beaurocracy He said if an emergency situation needsto be addressed, then all I need to do is know; we are not stopping progress and not stopping lives from being saved.

Councilman Louda made a MOTION to accept Resolution 2008-030 Emergency Road Repair Policy, SECONDED by Councilman Lipp and discussion was then opened:

Councilman Louda said I agree with your need for communication, however, start it by phone, however emails are quick and I want a paper trail of every step of the way. He said we are provided with receipts and that works great. He said my only thing is for the immediate emergency, which you are talking life and death, what's the limit before we.....

Town Clerk Lippman interrupted Councilman Louda and asked, as far as a dollar amount.

Town Attorney Tolces said that will be part of your procurement code that you are considering, what authority you are going to give the Town Manager to enter into agreements and make repairs.

Councilman Louda said the \$10,000 I mentioned.

Town Clerk Lippman said that is consistent with the change Councilman Lipp wanted to make in the procurement code.

Town Attorney Tolces said if there is an extreme emergency, that may either take the calling of a Special Meeting of the Town Council to approve some type of expenditure, or if there is no time, the Town Manager may just have to advise the Council ways of doing it and you would have to come back and ratify your decisions.

Councilman Louda said if there was a catastrophic culvert failure like here at D Road, close the road off and then you've got time. He said when you flood the street where people are living, then that has got to be handled.

Councilman Lipp said we have been a Community for a very long time and I have seen a lot of roads get full of water out here, so a lot of these things have existed for a very long time. He said I think it is good we can help neighbors and get them by, but the issue really is whoever platted out their property didn't get the drainage right and I think we are getting into an area of what do we do and we don't have the money to go fix every street in Loxahatchee Groves that is a Public Road that has got poor drainage.

Town Attorney Tolces said we have our Code Enforcement process and if someone's property is causing flooding, that there may be the ability to cite them in violation of provision of the Code that they are causing a nuisance.

Councilman Lipp said I went through Article 14 and I didn't see anything required for culverts.

Town Attorney Tolces said it wouldn't necessarily say culverts, I would have to find provisions.

Town Clerk Lippman said I hope that with the trust and faith that you have in Town Staff that we would know how to handle an emergency. He said one of our challenges will be if we solve an emergency situation like 24th Circle North, we don't just say here is your fill, have a nice day. He said we have to work with them on a drainage plan. He said once we resolve an emergency situation it is up to us to go to the landowners and letting them know we need to solve this problem and that is one of our responsibilities as the Town.

Councilman Lipp said I think the 1st time is okay but the 2nd time emergency is really not an emergency anymore-it's chronic.

Councilman Autrey asked if it is logical for the Town to have a policy not maintained by the LWCD and strictly relating to roads and not maintained.

Town Attorney Tolces responded no, because as I've explained before it needs to cover all the Public Roads within the Town and that includes roads maintained by the LGWCD and roads that are not maintained by the LGWCD for whatever reasons.

Councilman Autrey said I think that part should be stricken and we can work with the LGWCD if situations come up to see how best it can be handled, but at the end of the day, we have a fiduciary responsibility to make sure we handle the money correctly. He said the reason why I was an advocate of developing some plan was because I saw the genie coming out of the bottle which was Dennis's concern, but if you get an issue that is chronic or you get a situation where it is an emergency and the Town has the ability to act quickly we can also create a financing mechanism, creating a bridge loan if you will just to solve the problem, and then we get together with the residents and come up with a plan and figure out a way to create a solution and I know Irv has worked on some financing options and we can present these to solve the problem and give them financing long term and then the Town could essentially reimburse the fund. He said it is a way to react quickly because we do have some chronic problems, and it is not a problem until there is a big rain event and then all of a sudden you have a major problem for a couple of weeks. He said so I think that is something we should look into developing.

Town Clerk Lippman said the uniqueness here is if there is an emergency on a District Road they have the money, the budget, and the means, they can just do it, but if there is an issue on a road they do not maintain, what they are calling Non-District Roads, they have means, no money or authority to be on that road and the purpose of this was not to say if someone calls me and says I have a problem on D Road that I am not going to help them out, but that I believe is the fiduciary responsibility of the LGWCD and if the language is changed and all of a sudden there is an emergency on D Road then all of a sudden the Town would have to foot the bill.

Councilman Autrey said I am trying to develop a spirit of cooperation and whatever works best in the spirit of cooperation is what I want to see, and when I see the exclusive this or exclusive that, I see flags and I ask is this in the spirit of cooperation.

John Ryan, 3508 A Road- said I think we need to cooperate.

Town Attorney Tolces responded I think from a legal perspective, we need to treat all the roads in the Town the same recognizing the fact that the LGWCD has limitations on what they can do. He said we don't need to state that in our policy, who is going to go first, He said as the officials of the Town you have the responsibility of all the Public Roads within the Town and in a policy you shouldn't differentiate between the two.

Town Clerk Lippman said I agree with you.

Councilman Autrey said if we have an emergency drainage issue should the word drainage be in here because this is specific to roads.

Town Attorney Tolces responded I think drainage needs to be handled differently.

Town Clerk Lippman said this is strictly for roads. He said these are for the roads that the Public travels on.

Town Attorney Tolces said they may be interconnected at some point in time.

Councilman Autrey said well one leads to another.

Town Clerk Lippman said if there is a drainage issue, but it is only affecting someone's property we have to be careful, but if it is affecting a Public Road then we have to step in and take care of that.

Councilman Lipp said one example is there on Marcella where the culvert is a 4 inch piece of PBC and it blocks up with every major rain event and it floods across the street and people's homes get wet inside and this is where the Code of Ordinances would come in handy in knowing what that code is and requiring the property owner to put in a appropriately sized tube. He said I don't know those things but that is something I know if Frank was here he could tell us exactly. He said that is an issue on a lot of the Non-District Roads. He said I agree with Councilman Autrey on the drainage and most of the time when these properties are flooded it is because the water didn't get to where it needs to get to.

Town Clerk Lippman said my recommendation would be to pass this policy relating to roads and put on a future Agenda the drainage issue and how the Town Council wants to get involved.

Councilman Lipp said we've got all winter.

Councilman Louda said I would like to leave drainage out of this because we are collecting gas tax revenue for the maintenance of roads and if there is something wrong with the roads due to drainage then that comes in without having to be stated. He said this allows the 5 and 6 cents gas tax to fall under this policy.

Town Clerk Lippman said I would advise you to pass this Resolution with the changes that Councilman Autrey brought up and we will hopefully be directed to come back to you in the next couple of weeks and get your thought process on drainage.

Vice-Mayor Herzog asked for comments from the Public.

Ron Jarriel, 2800 161st Terrace North- said thank you for coming up with a policy for emergency road repair. He said I agree with Staff you've got 2 problems, one with the road and one with drainage and they don't need to be on the same policy. He said with 24th Circle North I want to thank the Council and Town Staff for a job well done. He said in a short time period because they communicated with the LGWCD in an emergency situation and we fixed 2 roads for what we thought it would cost to fix 1. He said the residents over there are very happy. He

said they have got a road and they have access to their homes. He said whether their property floods or not they still will have access in and out. He said drainage is the second problem they are going to have to work on and hopefully they will work with the LGWCD before the next hurricane season and we can solve that problem. He said I think this policy information is fine and I agree with Councilman Autrey and we had our Special Meeting and we agreed that both agencies need to work together. He said I believe Clete and Irv was going to meet this week and due to illness he had to reschedule but I do want to thank them for making such a quick attempt to try and get together and communicate. He said I didn't like the part where it says-to be completed on Public Roads-I think all roads should be treated equal-I think you could have put something in there like all roads both maintained and not maintained by the LGWCD. He said that way it doesn't say it is a District Road or a Non-District Road, it is just classified as a Public Road we get gas tax money for-I'd like to see it written like that. He said the only other thing I didn't agree with the Town will work with a contractor and would like to see the Town will work with the LGWCD and if that is not possible then you would get with a contractor but the only way that would not be possible would be if we had our hands full with too many situations and we couldn't get to an emergency that quick, but so far and with the Council's help we took care of 2 problems.

The MOTION passed unanimously 4-0, with Mayor Browning absent.

Vice-Mayor Herzog moved to Item #15.

15. Administration Update: Upcoming Items for the 11/18/08 Meeting:

- i. **Process for Permitting Uses that are Currently Non-Conforming:** Discussion
- ii. **Gas Tax Revenue Expenditure Policy:** Discussion
- iii. **Dust Mitigation:** Options and Discussion
- iv. **ERM Regulation Feedback:** Discussion

Town Clerk Lippman said I just want you to know coming up on the next Agenda we are going to continue the process talking about permitting uses and Councilman Lipp, Kevin McGinnley and I have a meeting with the County Staff this Thursday and we will be reporting back at the next meeting. He said we will get a little more detailed on the gas tax revenue expenditure policy. He said we are going to get more specific on dust mitigation and the process to move forward on that. He said my goal is to hopefully meet with Irv and David Tolces to get some direction on the next step with ERM regulations and that will be coming up on a future Agenda.

Vice-Mayor Herzog moved to Item #16.

16. Public Comments

Ron Jarriel, 2800 161st Terrace North- said I just want to thank Mayor Browning and Town Staff for a job well done on 24th Circle north and we actually did 2 streets and I like the idea of keeping it under \$10,000 and I think the approximate cost was \$5600 which was under the

\$6000 estimate. He said to finish the job I think it took 3 days. He said you have got a lot of happy people over there now.

Councilman Louda asked the cost you brought forward, was that just for fill or does that include time or upkeep of the equipment.

Town Clerk Lippman said I received invoices and the only amount they requested to be paid was \$4800 for the fill.

Councilman Lipp said I think that was nice because from what I heard the guys were here and getting paid they might as well work on behalf of the LGWCD.

Councilman Louda said that is good in the cooperative spirit but I am just wondering about the legal aspect.

Town Clerk Lippman said we will address that in our comments.

Mr. Jarriel said we determined a long time ago as the Supervisors for the Board of the LGWCD whether you are a District or a Non-District Road you are paying taxes out here for the LGWCD and the roads so finally in the past few years with courtesy grading petitions we have started to give back to the people.

Councilman Louda asked does 24th Circle North have a courtesy grading.

Town Clerk Lippman responded yes.

Councilman Louda said well okay that handles it then.

Vice-Mayor Herzog moved to Item #17.

17. Town Clerk Comments

Town Clerk Lippman said I know we all want to get home this evening and we appreciate, I know we had some tough decisions tonight. He said just to point out after last Tuesday's night meeting, I am not pro anything, I am only pro one thing and that is cooperation. He said I think that we had it at one time and hopefully we will get it back. He said one thing I want to point out from a legal perspective is in order to work together as a Town there needs to be open communication between the LGWCD and the Town. He said Irv and I are responsible for the daily business of this Town 24/7 and it is very important that we are included and shared with on the information it takes to run this Town. He said in the particular case of 24th Circle North, the first and primary goal was to get the residents taken care of, which happened and we are very happy it happened. He said my concern is when we are looking forward is when I asked for certain information for myself to feel comfortable about the legalities of doing this work and just to be aware of it, I have to tell you it is frustrating. He said my office is 50 feet away and I just need a phone call saying, hey we started, it will take a few days and I will get back to you with what you needed. He said I didn't hear anything until later this afternoon when Mayor Browning asking why I am asking Clete for all this paperwork. He said I didn't ask for any paperwork, I just asked for communication. He said it is not a matter of trying to stir up the pot; I am not here

to stir up anything because I have no problem working with people but Irv and I cannot be shut out of being informed of what it takes to run the Town. He said and we know the residents were taken care of and we are happy about that and I am happy that they got done. He said but that does not take away our responsibility to you all to make sure our bases are covered. He said there is a difference between bureaucracy and efficiency, and my efficiency would have taken 5 minutes and that is all I ask. He said if I can just be included in this, be part of it, we can be a team again, and I welcome that opportunity.

Vice-Mayor Herzog moved to Item #18.

18. Town Attorney Comments

Town Attorney Tolces said following up on that from a legal perspective, you as the Town Council, Town Manager and Town Clerk all have a fiduciary responsibility to make sure that the funds that the Town has are spent in accordance with sound business practices, that you have a paper trail in place, so when the auditors come and see how the money is being spent, that there is some sort of authorization in place prior to the Town incurring any obligation to pay those funds. He said that is my concern, when I got a call from Matthew I said well make sure you get an understanding from the LGWCD that yes the Town will pay for it, but we need to know what work is going to be done, what it is going to cost, send us over something then he can go ahead and authorize the work. He said then to find out after the fact that the work had already been done before that information had been provided to Town Management and the Town Clerk makes it difficult for the Town to show the auditors the paper trail was in place and there was authorization to spend the funds and that is my concern in working with any entity or contractor. He said there need to be legal documents in place authorizing the expenditure, so there are no questions raised by anyone that the Town was authorized to spend those funds, and I hope I wasn't too tough on you tonight, and I know you have important issues to deal with. He said I will be talking with you each individually over the next couple weeks to come. He said thanks very much.

Vice-Mayor Herzog moved to Item #19.

19. Council Member Comments

Councilman Lipp said I'll be attending the LGWCD Board Meeting next week and I am really emphasizing we need to have these open communications to not stone wall anything. He said to read one email goes out and another comes back and we are going at each other and that gives me heartburn. He said I think if we are going to make Option 4 work we need to start.

Councilman Autrey asked if Calvin-Giordano has had the opportunity to review the LGWCD's comments with respect to the Comprehensive Plan.

Town Clerk Lippman responded yes sir.

Councilman Autrey asked are we going to see their response at any point in time and what is the process for that.

Town Clerk Lippman asked are you referring to the comments that were forwarded to the DCA.

Councilman Autrey responded correct.

Town Attorney Tolces responded there is no specific obligation that they respond to those comments.

Councilman Autrey said I understand. He said I am going with this in a direction. He said I just want to know if they looked at it.

Town Clerk Lippman said we have their assessment of it and the anticipation is that when we receive the ORC Report on November the 23.

Councilman Lipp said that is a Sunday.

Town Clerk Lippman said then it is 2 days before that, that 21st. He said then at that point they are going to combine what has been submitted by DCA, and also address the comments made by the LGWCD with any recommendations as to what they would approve or disapprove. He said, however, they also had an opportunity to review the letter that was attached to those conditions and obviously, I think that it would be more appropriate for our legal Counsel to address those. He said there is obviously a difference between the submitted comments and this letter.

Councilman Autrey said what I am thinking is moving forward in this new spirit of cooperation that the LGWCD could rethink or at least work with us, knowing that we got those comments the day before we were adopting the Comp Plan and they didn't have an opportunity to even review them and then to hold us.....He said I would hope to hear something from the LGWCD saying we are rethinking what we are doing-we would like to work with the Town-we realize you got a project, you have deadlines, timelines, you have a process and you are going to have another opportunity to address those. He said that would hopefully come through in the spirit of cooperation. He said that is what I would like to see happen in an ideal world. He said and with that, this whole idea of cooperation I think we need to discuss what that is and we've got this issue out there and I brought it up last Tuesday and it is this road jurisdiction issue. He said what are we going to do we got a responsibility. He said they have drawn their line in the sand, and we've drawn our line in the sand. He said we've got this looming thing out there about roads. He said I think that is something that we need to have an honest, open discussion about. He said when they talk about exclusive right for the roads what does that mean. He asked what problems do you see down the road with that. He asked what problems does that present to us as a fiduciary responsibility. He said we have to talk about it, I know no one wants to, but I mean I think it is important that we talk about it and get it out there. He said I don't want to do it in an adversarial way I mean you know it is the sandbox mentality that bothers me. He said we've got a Community here and we should be working together instead of drawing lines in the sand.

Town Manager Dr. Rosenbaum said I think that one of the ways that we have to start is with Matt and let him get some dialogue going because some of the stuff pertains to operations and the policy on the roads. He said I think we need to get the dialogue going but I think the dialogue has to start at our level.

Councilman Autrey said I agree but the whole concept of planning. He said it was brought up and it will be brought up again and we do have a responsibility for Comprehensive Planning and with that goes certain things. He said where are we going to take this and how are we going to resolve these issues is really what I want to get to and we really need to talk about it. He said there is this nebulous thing out there we are going to cooperate, well what does that mean, that's what I want to know. He said you tell us your issues, these are our issues, now how can we resolve them,

Town Clerk Lippman said if I could just respond. He said I think the key thing and I guess I'm taking your direction and what you are trying to say is that on Tuesday night we left with a feeling that the 2 entities are in the mode of the spirit of cooperation. He said I know we have it out there, but the unfortunate thing right now is what you are indicating, is that we have this document that is looming out there that indicates that they are trying to urge the DCA to find our Plan not compliant, that they have the exclusive jurisdiction of roads and we have no right to those roads, so I guess what you are saying is you see a contradiction between what was stated on Tuesday and what is still out there.

Councilman Autrey said well it needs to be resolved. He said we can't not discuss it. He said so what I am looking for is for Staff to be proactive and put it on the Agenda for the next meeting-let's talk about it as a Council-I would like to hear what everybody thinks about this, what our concerns are.

Town Attorney Tolces asked do you want a legal Memo. He said aside from cooperation and whatever that may entail, one of the other methods that the Town Council can take to resolve any issues or confrontations or conflicts that you may see between us. He said what the Town Council may want in respect to roads and what the LGWCD may want. He said aside from filing a local Bill and having a Bill passed to make them a dependent district, what are the other options.

Councilman Autrey said well then you go to court.

Town Attorney Tolces responded and then you let the judge decide.

Councilman Autrey said and I don't think that is cooperation and the only people that win are the lawyers-nothing personal.

Councilman Lipp said that isn't cooperation.

Councilman Autrey said what I am saying is there are some concerns and we need to have an open, frank, and honest discussion about what they are and how we resolve them.

Town Clerk Lippman said we can by the next meeting if what you are asking is, Irv and I can meet with Clete and get some dialogue going in reference to this matter and at the same time we can have the Town Attorney give their legal opinion on what the options are. He said there are really two options.

Councilman Autrey said they have 5 Board members, some of them are here and certainly they have a meeting next week, they can discuss it, and what do we want to do to resolve some of these issues.

Town Clerk Lippman asked so would you like us to draft a letter requesting the LGWCD discuss this at their November 10th meeting.

Councilman Autrey responded yeah.

John Ryan asked to make a comment.

John Ryan, 3508 A Road- said I think rather than add you guys talk to your Staff and our guys talk to our Staff, that the recommendation for Alternative 4 was that perhaps on a rotating basis a member of the Town Council and Staff meet with a member of the LGWCD Board of Supervisors so that the dialogue is appropriately brought to both bodies. I think that with reference to the comments that were filed, those were pretty matter of fact comments; I've read through them and I don't think there was anything confrontative in that-I think that is pretty matter of fact. He said I think if you want more dialogue about it, it ought to be in the form of those meetings that were suggested.

Councilman Autrey said I guess what I am trying to do John is start it off and say we need to come forward with our concerns, you are not going to just get together and talk about who won the last game on Sunday, we need to come up with the issues to discuss.

Mr. Ryan said I am saying one member of the Town Council and Town Staff, and one member of the Board of Supervisors and the LGWCD Staff ought to have that as an Agenda Item, let's talk about how we rank these comments together in some reasonable way.

Councilman Autrey said so you want to have a conversation before the conversation to discuss what the conversation is going to be about.

Mr. Ryan said no, Alternative 4, and that single comment wasn't necessary, was clearly brought out by your consultant. He said why don't you have some combination of the Town Council and LGWCD Staff....

Councilman Autrey asked for a point of order and said I don't need Mr. Ryan to tell me what I thought. He said what I am suggesting is the Council have a conversation next week amongst ourselves to discuss what our concerns are so when this Item 4 does move forward whoever is going to be meeting, understands what the Council's concerns are to talk about. He said that is what I am driving at.

Town Clerk Lippman said one thing I would just caution the Council is that although John Ryan has a perspective on the letter and the matter of fact comments are in fact not matter of fact. He said the fact of exclusive jurisdiction of the roads and not finding the Comp Plan in compliance are very serious issues. He said I don't consider that matter of fact and I think what Councilman Autrey is bringing up is this is a very important issue out there, that this is a very not matter of fact letter-this is a very damaging letter and we need to get this out in the open and talked about before we move forward. He said and I think that is what Councilman Autrey is asking, is start getting this dialogue going now about this, get some direction, because this is something that is looming and is not matter of fact-it is pretty damaging and could hurt us and we need to get this matter resolved.

Councilman Louda said thanks for the segway Dave and handed out copies of his comments he wrote up. (comments posted below)

J. William (Bill) Louda Nov. 4, 2008.
Comments on the "Cost Benefit Analysis-" by District Offices
my recommendations for proceeding from this point -- and -- notes on
* main point: Without a published line-by-line "cost analysis" I consider the "Cost Benefit Analysis" performed by District Offices study inadequate as no 'costs' were analyzed! However, conclusions

regarding *potential* cooperation are taken to heart. My recommendations to establish a cooperative atmosphere between the Town of Loxahatchee Groves (aka the Town) and the Loxahatchee Groves Water Control District (aka the District) are as follows:

First Step: The District withdraws any and all opposition to the Town's Comprehensive Plan. This is to include but not be limited to sending a letter to the Department of Community Affairs (aka DCA) withdrawing the letter sent by their law firm. All debate by the District concerning whether or not the Town qualifies for gas-tax monies should cease as it is counterproductive and serves only to hurt the residents and landowners. Failing these acts of good faith, I recommend that no further efforts be made by the Town and the "Alternative Action" be invoked.

Second Step: Upon bringing step #1 to fruition: The Town should draft a policy outlining the transfer of gas tax monies to the District for (a) projects for which the District requests funding and (b) projects which the Town identifies and the District is the winning bidder. Policy to be agreed to by both parties.

-- Alternative Action: Should Step #1 not occur or if #2 takes more than 6 weeks to complete, the Town should then earmark all gas tax monies for upgrading 'nondistrict' Town roads using private contractors. The only exception to this would be in the case of a true emergency on District roads, such as a collapsed culvert, for which the District budget is inadequate.

Third / last step: Should steps #1 and #2 go smoothly (non-opposition to comp plan and a policy agreed to by both parties) then the last step is activation of the policy. However, at this point any and all projects funded by Town collected gas tax monies and performed by the District will have signage posted in plain sight that reads: " This is a joint project of the Town of Loxahatchee Groves and the Loxahatchee Groves Water Control District. - YOUR GAS TAX MONIES AT WORK."

Vice-Mayor Herzog asked if there were any more comments or comments on his letter.

Town Clerk Lippman said it is my understanding is that on the next Town Council Agenda there will be an Item just to discuss Alternative 4 and at that same conversation we can discuss this particular letter sent in by Councilman Louda.

Vice-Mayor Herzog said my only comment is good meeting this evening and reminder that the Wellington Christmas Parade is coming up and we need to make a determination as to whether we are going to be participating.

Councilman Louda said that was fun and asked what's the date.

Vice-Mayor Herzog responded it is usually the first Sunday in December.

Councilman Louda asked will we have to make that an Agenda Item because that might require a decision.

Town Clerk Lippman said we will talk about it at the next meeting.

20. Adjournment

Councilman Louda MOTIONED to adjourn the meeting, SECONDED by Councilman Lipp and the Motion passed unanimously 4-0, with Mayor Browning absent.

There being no further discussion and no additional public comment the meeting was adjourned at 9:29 p.m.


MAYOR DAVE BROWNING

ATTEST:


Matthew Lippman, Town Clerk

12-2-08
Date Approved